IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No. 571 of 2004

For Approval and Signature:

HONOURABLE MR.JUSTICE J.R.VORA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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JAYANTIBHAI LATHABHAI PATEL

Versus

THE COLLECTOR & ANR

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Appearance :

MS VARSHA BRAHMBHATT for Applicant

RULE SERVED for Respondent No.1

MR KC SHAH APP for Respondent No.2

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CORAM : HONOURABLE MR.JUSTICE J.R.VORA

Date : 18/01/2006

ORAL JUDGMENT

1.Heard learned advocate Ms.Brahmbhatt for the applicant and learned APP Mr.K.C.Shah for the respondent No.2 – State of Gujarat. Respondent No.1 is served.

2.Though the learned advocate for the applicant agitated the matter on merits as to whether the department in question was entitled to seize any part of goods i.e. groundnuts, but going through the record and after hearing the learned APP, she restricted arguments to the extent that having regard to the irregularities brought to the record seizure of 50% of the whole bulk of groundnut by the department i.e. by the Collector, Sabarkantha at Himmatnagar vide his order dated 20th August, 1997 is too harsh and the same be reduced to some extent.

3.On 11th July, 1997, a truck bearing No.GJ-11-U-8586 going towards the Ahmedabad was stopped by the Sabarkantha Supply Department and the truck was loaded with bulk of groundnut. Certain

breaches and contraventions were found in transporting the bulk of the groundnuts by the applicant in terms of Essential Articles (Licensing, Control and Stock Declaration) Order, 1981 and as per conditions No.9 and 12 of license. Hence after issuing the notice and hearing the parties, vide order dated 9th August, 1997, the Collector, Sabarkantha at Himmatnagar seized 50% of groundnuts, out of 76.22 Kilogram, to the Government amounting to Rs.41,921.00. The present applicant also preferred statutory appeal before the Additional Sessions Judge, Sabarkantha at Himmatnagar being Criminal Appeal No.27 of 1998, but the same was rejected by the learned Additional Sessions Judge & 2nd Fast Track Court, Sabarkantha at Himmatnagar, vide order dated 25th May, 2004 and hence, this Criminal Revision Application.

4.Considering the submissions of learned advocate for the applicant for reducing the percentage

of seizure and taking into consideration the view taken by this Court in the matter of **CHETAN KUMAR JAYANTILAL SHAH Vs. DISTRICT SUPPLY OFFICER & ORS.**, as reported in **1998 (2) GCD 980 (Guj)**. The request made by the learned advocate for the applicant is required to be accepted. In the abovesaid case of **CHETAN KUMAR JAYANTILAL SHAH** (supra), this Court, for the breach of not keeping the account books of the godown, reduced the volume of seizure from 50% to 25%.

5. In this view of the matter, the order passed by the Collector, Sabarkantha at Himmatnagar on 29th August, 1997 in ECA/Seizure/Case/57/97 directing seizure of 50% of bulk of groundnuts amounting to Rs.41,921.00 is modified to the extent that it is directed that 25% of bulk of groundnut of 76.22 Kilogram is directed to be seized to the Government. This 25% of the bulk of groundnuts would stand to value at half of the amount of Rs.41,921.00 and to that extent

the order passed by the learned Additional Sessions Judge & 2nd Fast Track Court, Sabarkantha at Himmatnagar in Criminal Appeal No.27 of 1998 is also modified.

6.In the result, this Criminal Revision Application is allowed as aforesaid. Rule is made absolute to the above extent. Interim relief granted earlier stands vacated. Direct service is permitted.

[J. R. VOR,J.]

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